

Monday, November 30, 2015

**COMPLAINT AND REPORT TO THE
Appropriations, Justice and Public Safety
(House Standing Committee) and the Joint
Legislative Oversight Committee on Justice
and Public Safety on Evidence tampering
and/or mishandling of Evidence**

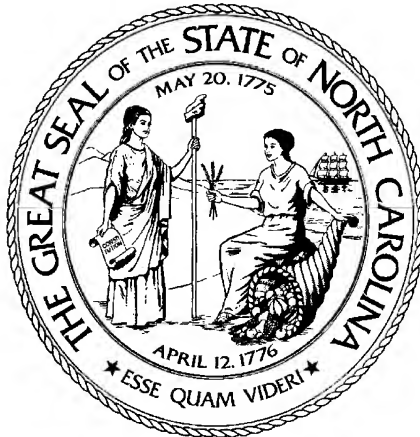
Independent Report and Complaint organized and drafted by Brian David Hill.

Disclaimer: The State Seal is unofficially used in this COMPLAINT and REPORT only to report issues dealing with a State Agency to the Committees members. This report is made Independently for the Committees. The drafter of this Report and Complaint is not affiliated with the State of North Carolina. This report is independent and is not affiliated with any law enforcement.

COMPLAINT AND REPORT BY:

BRIAN DAVID HILL

IN HIS INDIVIDUAL CAPACITY AND AS A NATURAL BORN CITIZEN



Complaint is filed as follows against the State Bureau of Investigation under the Department of Public Safety, under the oversight of the Joint Legislative Oversight Committee on Justice and Public Safety

Date: Monday, November 30, 2015

This report and Complaint is respectfully submitted via facsimile (FAX) to the Legislative Office Building and Legislative Building requesting that copies (duplicates) of this document be made available to the following members of committees:

Appropriations, Justice and Public Safety

House Standing Committee

Members

Chairman Rep. Boles

Chairman Rep. Daughtry

Chairman Rep. Faircloth

Chairman Rep. Hurley

Vice Chairman Rep. Jackson

Vice Chairman Rep. McNeill

Vice Chairman Rep. Stevens

Members Rep. C. Graham, Rep. G. Graham, Rep. R. Johnson, Rep. Salmon, Rep. Speciale, Rep. R. Turner

Joint Legislative Oversight Committee on

Justice and Public Safety

Non-Standing Committee

Members

Co-Chairs

Rep. James L. Boles, Jr. (Co-Chair)	House Appointment
Rep. Pat B. Hurley (Co-Chair)	House Appointment
Sen. E. S. (Buck) Newton (Co-Chair)	Senate Appointment

Legislative Members

Hon. Austin Murphy Allran	Senate Appointment
Rep. Justin P. Burr	House Appointment
Rep. N. Leo Daughtry	House Appointment
Rep. John Faircloth	House Appointment
Rep. George Graham	House Appointment
Rep. Charles Graham	House Appointment
Rep. Darren G. Jackson	House Appointment
Rep. Allen McNeill	House Appointment
Rep. Sarah Stevens	House Appointment
Rep. Rena W. Turner	House Appointment
Sen. Stan Bingham	Senate Appointment
Sen. Harry Brown	Senate Appointment
Sen. Angela R. Bryant	Senate Appointment
Sen. Warren Daniel	Senate Appointment
Sen. Jeff Jackson	Senate Appointment
Sen. Michael V. Lee	Senate Appointment
Sen. Shirley B. Randleman	Senate Appointment
Sen. Dan Soucek	Senate Appointment
Sen. Mike Woodard	Senate Appointment

Advisory Members

Rep. Jonathan C. Jordan	House Appointment
Rep. Michael Speciale	House Appointment
Rep. Lee Zachary	House Appointment

Basis and Argument for this COMPLAINT and report:

I, Brian David Hill, formerly a citizen of North Carolina that had lived at 413 N. 2nd ave., Mayodan, NC 27027, now a citizen of Virginia, am filing this Petition with both Committees (named above in Page 1) for the purpose of filing a COMPLAINT and report to both Committees over Justice and Public Safety. This Petition is being filed under the authority of both Article 1, Sec. 12 of the North Carolina Constitution (See Endnote ¹) and the United States Constitution, Bill of Rights, Amendment 1 (See Endnote ²). Since this matter is directly involving a matter of the State Bureau of Investigation, this COMPLAINT is valid even though now I am a citizen of Virginia. I used to live at 413 N. 2nd ave., Mayodan, N.C. 27027, at the time a state investigation was being conducted by the Mayodan Police Department. Therefore the state does have

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jurisdiction over this very issue as it affects a state law enforcement agency matter.

This Petition to both the Appropriations, Justice and Public Safety (House Standing Committee) and the Joint Legislative Oversight Committee on Justice and Public Safety, is as follows:

(1)Whereas, Both Committees have authority to deal with state law matters regarding the N.C. Department of Public Safety which is the umbrella agency for the N.C. State Bureau of Investigation. All issues dealing with the NC SBI are handled under the Department of Public Safety which is under oversight by the Joint Legislative Oversight Committee on Justice and Public Safety.

(2)Whereas, This COMPLAINT and REPORT is directed to both Committees for the purpose of a speedy resolution to a ongoing issue to which affects Constitutional Due Process rights, crime lab policies and forensic investigation matters, possible signs of misconduct or mishandling of forensic evidence during the investigation phase, and other possible legal issues to which the Committees should take with severe urgency.

(3)Whereas, Both Committees may hold Subpoena powers and can hold the State Bureau of Investigation accountable for my alleged allegations against Special Agent Rodney V. White for inappropriate handling of evidence. Special Agent Rodney V. White works for the Northern Piedmont District Office of the State Bureau of Investigation, located in Greensboro, NC. The alleged allegations documented in this COMPLAINT and REPORT are documented as facts that I, Brian David Hill, are at least aware of. An Affidavit will also be ATTACHED to this COMPLAINT as apart of the Actual Innocence factual basis stated in this report. This will give the factual basis, a standard of probable cause as to why both Committees need to act on this COMPLAINT as soon as possible. I will argue both with statutory and evidential basis reasons as to why this Petition should be adopted by the Committees and as to why this COMPLAINT should be adopted by this Committee for the matter to investigate and take action.

The Research Division and the Chair-people of the Committees need to investigate this matter to resolve the issues.

Evidence to prove the Factual Basis will not be attached to this REPORT. Instead the Affidavit of Innocence and citing of Documents shall be enough to satisfy the Committees need for facts to investigate to prove a case to which the Committee should take this matter into consideration in it's decisions for the North Carolina General Assembly. It is the Duty of the Oversight Committee to hold the State Bureau of

Investigation accountable when a legitimate and factual matter is brought to it's attention, regardless of what crime a suspect has been accused of. The evidence and documents cited can be subpoenaed from the sources cited in this report. All photocopies of documents and records of Brian David Hill, the Petitioner, can and will be made to be freely given to both Committees upon request. Therefore no subpoena will actually be needed as to Brian David Hill for documents and records requests. However since the Petitioner is under Supervised Release (until Petitioner can prove Actual Innocence), the Petitioner will have to be subpoenaed or ORDERED to be deposed to testify at either or both Committee hearings (if necessary) so that the U.S. Probation Officer can authorize the Petitioner to travel to testify at the Committee hearings as apart of a authorized government proceeding to which the Petitioner can testify without fear of Revocation upon completing a duty to testify.

**Therefore the Factual Basis of this Petition
and Report are as follows per this complaint:**

- I am Brian David Hill. I used to live at 413 N. 2nd ave. in Mayodan, N.C., before August 29, 2012 where I had falsely confessed at the Mayodan Police Department to the allegations due to a executed Search Warrant signed by Superior Court Judicial Officer Todd Burke of Winston Salem. After the false confession, I had moved to the Commonwealth of Virginia while my mother had provided the police detectives my new address of residence. My Affidavit of Actual Innocence shall be enough for prove this fact, to which an investigation shall be warranted to help find out what is going on within the State Bureau of Investigation.
- Around August 28, 2012 my computers and other property was seized by the Mayodan Police Department as what was recorded under Inventory and Search Warrant. Then around October, 2012, Mayodan Police Detective Christopher Todd Brim had transferred custody of my seized property to SBI Agent Rodney V. White for forensic analysis of my property as per a criminal investigation by the Rockingham County District Attorney and the Mayodan Police Department.
- It was Special Agent Rodney White that recommended that Mayodan Police Department turn their state criminal investigation over to the U.S. Attorney to prosecute me in the criminal case United States of America v. Brian David Hill, Docket # 1:13-cr-435-1, U.S. District Court for the Middle District of North Carolina. Because of this the Innocence Inquiry Commission was unable to help me. Because of ineffective assistance of

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Counsel (Eric David Placke) I was not permitted to even review over all of the Discovery evidence acquired by Defense Counsel including the SBI case file which has a questionable statement by Agent White. I was only allowed to review a small portion of pages of the entire Discovery packet.

- Around January 22, 2015, Greensboro, N.C. Attorney John Scott Coalter turned over case files as per a legal request with him via certified mailing. He also decided to allow my family and me to review over the entire Discovery packet of evidence which included the SBI case file (See Endnote ³) of Brian David Hill (myself) by Special Agent Rodney V. White. I noticed in the case file report a very concerning statement to which is the sole cause of this COMPLAINT. The statement as follows:

eMule Known.net: The Known.net saves all files eMule knows of whether they are shared files, files currently in the download list, or downloaded in the past. For every file, information like file size, file name, hash sets, hash values, and some statistics are saved. From the analysis, this record showed that 454 files had been downloaded with the eMule program between **July 20, 2012, and July 28, 2013**. This record also showed that files were shared with other users and the number of times each file was shared.

- The record stated as follows that “From the analysis, this record showed that 454 files had been downloaded with the eMule program between **July 20, 2012, and July 28, 2013.**” What Agent White didn't mention was the fact that the very computer he had just analyzed was seized on August 28, 2012. That means that apart of the 454 files that were downloaded to the very computer he had analyzed was downloaded while under the custody of the Mayodan Police Department and then transferred to the State Bureau of Investigation. If the dates in the Known.net file are indeed accurate then the computer was running emule.exe regardless of whom held custody of the computer. The SBI knew of this if Agent White made no mistakes on those dates, they knew that child porn had downloaded to a computer after it's seizure which is a very questionable statement on it's merit to which warrants an investigation by Committee. The computer in question is the Black Toshiba Laptop Computer, Model # Satellite C655D, Serial # 2C276987Q. How could child porn have downloaded while under the custody of Special Agent White??? How could eMule.exe even ran to which it could have written to the Known.net file up to July 28, 2013???

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This calls into an important questions as to whether my Black Toshiba Laptop was even being examined under proper procedure. The **North Carolina State Criminal Laboratory** that handles child pornography forensic examination of hard disk drives, uses **special forensic towers to prevent evidence tampering, contamination, deletion, and planting**. If those dates are indeed found on Known.met then that means that a special forensic tower was not used, that Agent White had decided to conduct the analysis on the Laptop in question himself without following proper crime lab policies and procedure. It calls into question whether the evidence analysis was conducted properly at all. This kind of misconduct or incompetence should have disqualified this evidence from even being used in Federal and State Courts but again ineffective Counsel and possible misconduct by an SBI Agent caused such issues. In addition to this John Scott Coalter's paralegal Braxton has confirmed my suspicions that there was no virus log in any of the Discovery evidence Packet. That means that Agent White has conducted no virus scan nor has he examined the computer for any computer viruses or trojan horses as what the state crime lab may normally do.

The question is whether proper procedure was even followed regarding the forensic examination of my seized property in accordance of criminal case SBI investigation # 2012-02146 (915). This is also in reference to the seizure of my property under OCA / Case # **2012-00287**.

The factual basis is mainly stuff that can be proven by documentation and records. If an Affidavit is still needed then I, Brian Davdi Hill, am willing to write an Affidavit then have it signed then sent to Committee as soon as possible.

Whereas, for the FACTUAL BASIS stated in this REPORT and COMPLAINT, it is recommended that the Appropriations, Justice and Public Safety (House Standing Committee) and the Joint Legislative Oversight Committee on Justice and Public Safety, TAKE ACTION on this Petition to hold the State Bureau of Investigation and Special Agent White accountable for misconduct to which may harm my ability to prove my Actual Innocence.

The reason why this COMPLAINT should be taken seriously and should be acted upon As Soon As Possible is because these issues involve the wrongful conviction of Innocent man Brian David Hill. The two-page Affidavit is Attached to this COMPLAINT on the Actual Innocence assertion of Brian David Hill. This shows good cause as to why it is

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important to investigate whether proper procedures of forensic analysis was even followed. Did Agent White even have to follow any such procedures regarding forensic examination of my computer as evidence? Should Agent White have produced a virus log?

Every American citizen has a right to prove his/her Innocence to a crime accused of. Because the state crime lab never examined the seized computers, no virus log was ever made and I was not given an opportunity under N.C. 7C §8-58.20(D) of it's General Statutes, to even be notified. I was never given any right to object to what Agent White has claimed to have found on my computer. Because of Agent White avoiding usage of the Triad Crime Lab in Greensboro, NC that is apart of the State Criminal Laboratory, I was given no opportunity to ask questions nor was I given any opportunity to bring up why child porn would have downloaded up to July 28, 2013, 11 months after my computer was seized by the Mayodan Police Department.

Because of this I have falsely plead guilty and have been wrongfully convicted. Because of this I have filed countless Pro Se Motions to challenge the factual basis of my guilt. There is a lot of stuff I have filed Pro Se that brings a lot into dispute. Even though my case has the official **Disposition** of a Guilty Plea conviction incl. A Factual Basis of my guilt, the issues I have raised Pro Se on a post-conviction basis have also added a lot of serious doubt into my guilt. Unofficially my Pro Se Motions and Pro Se evidence filings after my criminal conviction should warrant a new Investigation into the allegations and issues I have raised on a Pro Se basis. My own criminal case is officially resolved, yet it is NOT resolved with the issues I have raised Pro Se. The average American citizen and Law Professor that studies my case files will also recognize that my criminal case is not morally resolved nor will they recognize that the issues I have raised Pro Se have been resolved. The Court has not resolved any issues I have raised Pro Se that prove me guilty beyond a reasonable doubt.

Under Agent Deaver of the SBI, the SBI was under investigation years ago for evidence mishandling and manufacturing issues involving the SBI and it's crime laboratory. The state had officially reformed the crime labs after that incident. However Agent White avoided the crime lab altogether which calls into question whether the Agent wanted to personally mishandle the evidence himself.

Whereas, it is my right under Due Process to investigate the evidence of my case. It is my right to ask questions as to why the State Bureau of Investigation would even avoid usage of the state crime lab after it's reform under ASCLD/LAB standards, and as to

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why they would not allow me to review over his report sooner then January 22, 2015 after I was convicted, and I was able to review the report due to Attorney John Scott Coalter. I need to know why child porn would download up to July 28, 2013 after the fact my computer was seized on August 28, 2012.

Whereas, it is my right under Due Process to discover new evidence to help me prove Actual Innocence as long as there are legal avenues to which I have not exhausted. I have not exhausted my right to file a 2255 Motion or Writ of Habeas Corpus under Discovery of new evidence to which show signs that I may Actually be Innocent.

Whereas, Special Agent Rodney White of the SBI have found that child pornography have been downloaded to my computer for eleven months while my computer was in the custody of law enforcement. Yet it was in his custody while the files were downloading to my computer according to his own report in the Discovery evidence. That should be a good enough compelling reason for the Committees to further investigate. In Addition to this, I have received two threatening email messages to my admin@uswgo.com email account back in 2013, while the child porn was supposedly downloading to my computer while it was at the SBI, and all of this can be proven as accurate with what I have read in Agent White's report and with my emails to Joy Strickland of the North Carolina Department of Justice to which has evidence attachments which includes both threatening emails I received alleging to me being framed with child pornography.

Therefore I file this COMPLAINT Petition asking both Committees to investigate and hold a hearing over the issues I have raised on this matter. I also ask that they hold Agent White accountable and investigate the facts raised in Agent White's report. I ask that the Committees investigate whether there was any evidence tampering, planting, deletion/destruction, or even contamination as a result. This is a serious concern I have that needs to be addressed as soon as the Committee has the time and manpower to fully investigate and research this matter. Thank You!

Brian D Hill - Petitioner
Signed

Endnotes

1 N.C. Constitution, Article I, Sec. 12. Right of assembly and petition.

The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

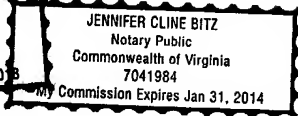
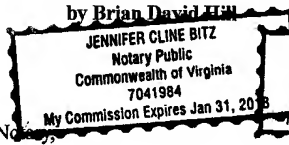
2 U.S. Constitution, Bill of Rights Amendment 1 - Freedom of Religion, Press, Expression. Ratified 12/15/1791.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

3 SBI case file 2012-02146 (915), Special Agent Rodney V. White prepared report. Working under the Greensboro, N.C. SBI Office.

GENERAL AFFIDAVIT

Commonwealth of Virginia
County-City of Martinsville



BEFORE ME, the undersigned Notary,

Jennifer Cline Bitz [name of Notary before whom

affidavit is sworn], on this 10th [day of month] day of November

[month], 2015, personally appeared Brian David Hill

[name of affiant], known to me to be a credible person and of lawful age, who being by me first duly sworn, on his [his or her] oath, deposes and says:

I am Brian David Hill, a natural born citizen of the United States. I am a citizen of Virginia at the time that my Affidavit was signed and sworn in as credible testimony. I have high functioning Autism Spectrum Disorder. I also have Obsessive Compulsive Disorder (OCD) and Generalized Anxiety Disorder. Because of my neurological disabilities, it limits my ability to live a normal life and makes it nearly impossible to hold down a career of employment. I cannot work so I live off of Social Security Disability payments.

I believe that I am Innocent of the charge/indictment of 18:2252A(a)(5)(B) and (b)(2) Possession of child pornography. It's because I am Innocent of the charge/indictment of 18:2252A(a)(5)(B) and (b)(2).

The reason I am Innocent is because I have noticed signs and evidence in 2012 that my computer had been hacked into by a computer hacker which I also believed may have used a PC Virus or Trojan Horse. I also believe that there may have been evidence tampering, planting, and/or contamination. I also believe and have evidence that I was framed with child pornography. I know I was framed since the Mayodan Police Raid on August 28, 2012.

I gave a false confession on August 29, 2012 to two police detectives at the Mayodan Police Department located at 101 North 3rd Ave., Mayodan, NC. I was threatened by Mayodan, NC Police Chief Charles J. Caruso to "Fess Up" and that if I did not fess up then my own mother would be held responsible for the criminal charge. I was also coerced on August 2012 into producing false confession statements. I told the Detectives that I did not download the child porn but they told me a claim that they believe they had found it on my computer and said I had better just tell them. Then I changed my statements to whatever they had wanted to hear. That was why I had suspected evidence tampering because they had admitted to have been on my computer to make such a claim to have found files on there. The police detectives are not SBI crime lab technicians and are not computer forensic scientists under strict LAB/ASCLD standards. They just accessed my computer to make such a claim of finding files. That was why I had attempted to suppress the evidence and that I believe I was framed with child porn. I believe that the evidence may have been tampered with because of such admission that the police accessed my computer without the

state crime lab technicians.

The reason I had accepted responsibility falsely in my criminal case was because Judge Osteen had either hinted or threatened to take away my acceptance of responsibility which would threaten my prison sentence of Time already served which means that I would get out of jail to protect my health from further deteriorating due to my Type 1 brittle diabetes. The reason I had falsely plead guilty was due to multiple valid reasons and one was to get a prison sentence of Time Served so that I could get out of jail. My family told me to plead guilty in the court room due to ineffective assistance of counsel and bad legal advice to the best of my knowledge of what they had told me.

I am Innocent of the charge and am willing to prove Actual Innocence or let a Jury decide my fate in the worst case scenario. I am Innocent and am willing to prove my Innocence for the rest of my life.

The charge I am asserting my Innocence to is:

**U.S. District Court; North Carolina Middle District (NCMD)
CRIMINAL CASE #: 1:13-cr-00435-WO-1
United States of America v. Brian David Hill**

[set forth affiant's statement of facts]

Brian D. Hill
[signature of affiant]

Brian David Hill
[typed name of affiant]

916 Chalmers St., Apt. D
[address of affiant, line 1]

Martinsville, VA 24112
[address of affiant, line 2]

Subscribed and sworn to before me, this 8th *[day of month]* day of November *[month]*, 2015.

[Notary Seal:]

Jennifer Cline Bitz
[signature of Notary]

Jennifer Cline Bitz
[typed or printed name of Notary]



NOTARY PUBLIC My commission expires: 1/31, 20 18.

